

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN

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DALE LEROY JAMES, JR.,

Petitioner,

v.

Case No. 18-C-1406

WARDEN LIZZIE TEGELS,

Respondent.

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**ORDER REAFFIRMING ADOPTION OF REPORT AND RECOMMENDATION  
AND DISMISSAL OF PETITION**

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On September 10, 2018, Petitioner Dale Leroy James, Jr. filed a second petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. ECF No. 1. James' first petition, also filed in this court, was dismissed in 2002. ECF No. 1-1 at 44–52. On September 13, 2018, Magistrate Judge William E. Duffin screened James' petition and filed a Report and Recommendation recommending that James' petition be dismissed. ECF Nos. 5–6. On October 3, 2018, the court entered an order adopting Judge Duffin's recommendation and dismissing James' petition. ECF No. 8. At the time the court entered the order, it had not received any objections from James, which were to be filed by September 27, 2018. Later on October 3, 2018, the court received James' objections. ECF Nos. 10–11. After review of James' objections, the court reaffirms its earlier order adopting Judge Duffin's Report and Recommendation and dismissing James' petition, as James' objections would not have changed the court's previous decision. The court lacks jurisdiction over James' petition under 28 U.S.C. § 2244(b), which bars claims presented in prior petitions and requires that claims not previously presented be raised and authorized in the appropriate court of appeals prior to being raised in a second petition before a district court.

**IT IS THEREFORE ORDERED** that the court's order adopting the Report and Recommendation, dismissing James' petition, and not issuing a certificate of appealability (ECF No. 8) is reaffirmed because James' objections would not have changed the court's prior decision.

Dated this 10th day of October, 2018.

s/ William C. Griesbach  
William C. Griesbach, Chief Judge  
United States District Court